

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

WILSON CONSTRUCTION CO., an Oregon corporation,

Plaintiff,

v.

SCHEFFLER NORTHWEST, INC., a Nevada corporation, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a Maryland corporation (Bond No. PRF7645954),

Defendants.

Case No. 3:16-cv-173-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on September 8, 2016. ECF 20. Judge You recommended that defendant Scheffler Northwest, Inc.’s (“Scheffler”) Motion to Dismiss (part of ECF 4) should be denied, Defendant Scheffler’s Alternative Motion to Abate/Stay (part of ECF 4) should be granted, the Court should compel arbitration, and the case should be stayed pending the conclusion of arbitration proceedings. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge You’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge You’s Findings and Recommendation, ECF 20. Defendant Scheffler’s Motion to Dismiss (part of ECF 4) is **DENIED** and Defendant Scheffler’s Alternative Motion to Abate/Stay (part of ECF 4) is **GRANTED**. The Court **COMPELS** arbitration and **STAYS** the case pending the conclusion of arbitration proceedings.

IT IS SO ORDERED.

DATED this 29th day of September, 2016.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge